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base layer by coating a treatment comprising the powder onto the base layer and drying the treatment thereon. Newly presented Claim 42 follows the suggestion of the Examiner at the end of the Office Action and recites that the natural organic impalpable powder has an average particle size of less than 30 microns and is firmly adhered to a side of the base layer which contacts with the skin and a cosmetic composition is weakly adhered to the natural organic impalpable powder. No new matter has been added as it is inherent that the cosmetic composition be weakly adhered to the powder in order for it to be applied to the user.

Claims 12-41 have been rejected under 35 USC 103(a) as being unpatentable over Mellul et al. Claims 12-41 also have been rejected under 35 USC 103(a) as being unpatentable over Lagrange et al. Once again, Applicants respectfully traverse these grounds of rejection.

The present invention is directed to a skin contacting article which comprises a base material having a natural organic impalpable powder firmly adhered to a side of the base layer which contacts with the skin. The powder is adhered to the base layer by coating a treatment comprising the powder onto the base layer and drying the treatment thereon. The natural organic powder is provided in an impalpable form and firmly adheres to the outer surface of the skin contacting article to make the article suitable for use as tissue paper, wet tissue, a mask, gauze, and sanitary articles such as disposable diapers, diaper liners and sanitary napkins. Additionally, the skin contacting article can be used as a make-up tool for the application of make-up. Due to the natural organic material being in an impalpable powder form, it has a good feel on the skin and is less likely to cause skin irritation. The desirable properties of the article of the present invention is only obtained after drying the treatment onto the base layer. It is respectfully submitted

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that the prior art cited by the Examiner does not disclose the presently claimed invention.

The Mellul et al reference discloses a powder cosmetic composition consisting of anhydrous powder and mainly including a solid particulate phase mixed with a fatty binder containing a silicone mixture. This reference additionally discloses that the cosmetic compositions can be applied to the skin by an applicator such as a sponge, powder puff or brush. However, there is no disclosure in this reference regarding the powder being adhered to the applicator by coating a treatment comprising the powder onto the base layer and drying the treatment thereon so that the cosmetic composition is firmly adhered to the base layer. Additionally, Mellul et al discloses at column 5, lines 20 and 21, that the pigments used in the cosmetic composition are chosen from inorganic and/or organic pigments and/or pearlescent pigments. The organic pigments disclosed in this reference would not be considered a natural organic material and, as such, it is respectfully submitted that the presently claimed invention is even further distinguished from this reference.

The Lagrange et al reference discloses a mineral or organic particle-based product comprising a powder consisting of mineral or organic particles smaller than 200 microns and an indoline product. Although this reference does disclose that the powder of this reference can be applied with a powder puff or brush, there is no disclosure in this reference regarding the coating of a treatment comprising the powder onto the base layer and drying the treatment thereon in order to adhere the powder to the base layer. As such, Applicants respectfully submit that the deficiencies contained in this reference are the same as those of the other primary Mellul reference and the presently claimed invention is distinguishable thereover.

It has been noted that the Examiner has stated that the powder sizes are present in the dependent claims but do not

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effect the status of generic claims. While that may be true, the dependent claims containing the powder size limitations must be considered on their own merits and not be dismissed simply because the independent claims do not contain these particular limitations. The Examiner has also stated that it is possible that the particle size of the powder is the same as those required in the present claims. As the Examiner is well aware, 35 USC 103 is not based on a mere possibility. There must be some teaching contained in the reference which would lead one of ordinary skill in the art to suspect that the particle size is the same. As such, Applicants respectfully submit that the examining standard used by the Examiner in the present application is outside 35 USC 102 and 103.

Reconsideration of the present application and the passing of it to issue is respectfully solicited.

Respectfully submitted,

  
Terryence F. Chapman

TFC/smd

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Encl: Marked-Up Amended Claims 12, 17 and 21  
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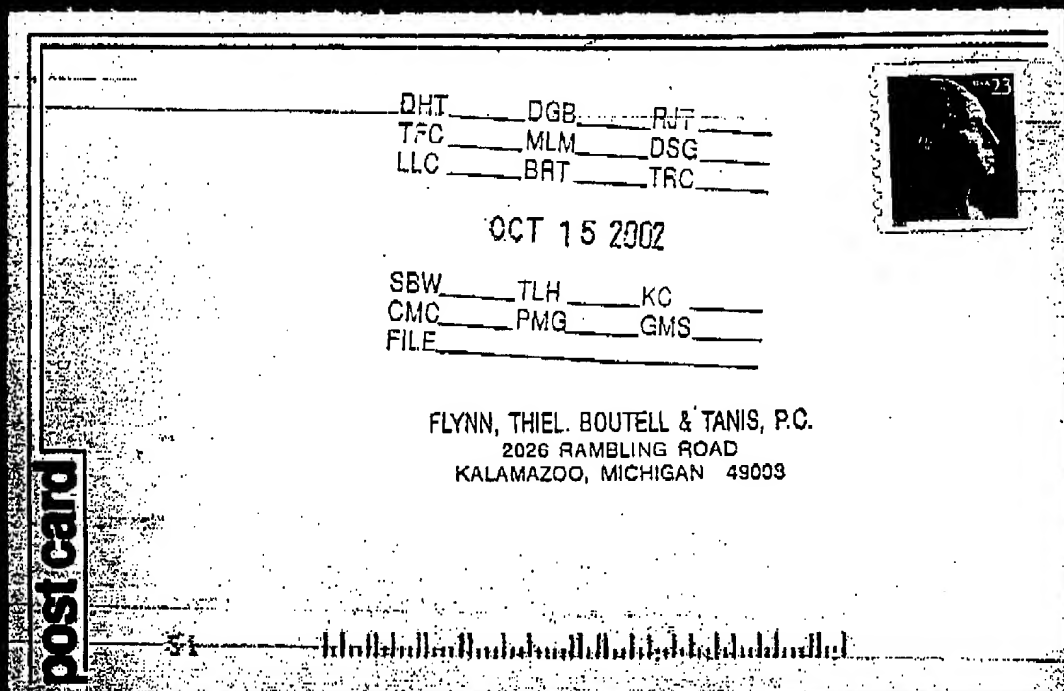
Marked-Up Amended Claims 12, 17 and 21

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12. (Amended) A skin contacting article used in contact with the skin, said article comprising a base layer and natural organic impalpable powder firmly adhered to a side of the base layer which contacts with the skin, the powder being adhered to the base layer by coating a treatment comprising the powder onto the base layer and drying the treatment thereon.

17. (Twice Amended) A skin contacting article used in contact with the skin, said article comprising a base layer and natural organic impalpable powder firmly adhered to a side of the base layer which contacts with the skin by a treatment including the natural organic impalpable powder, the treatment comprising the natural organic impalpable powder and at least one dispersion medium selected from the group consisting of water, an organic solvent, a resin emulsion and a resin aqueous solution, the powder being adhered to the base layer by coating the treatment onto the base layer and drying the treatment thereon.

21. (Amended) A skin contacting article used in contact with the skin, said article comprising a base layer and natural organic impalpable powder firmly adhered to a side of the base layer which contacts with the skin by a treatment including the natural organic impalpable powder having an average particle size of less than 30  $\mu\text{m}$  and either a resin emulsion or a resin aqueous ~~emulsion~~ solution for dispersing the natural organic impalpable powder, the content ratio of the natural organic impalpable powder in the treatment being from 0.5 to 50 wt.% and the solid resin content in the treatment being from 0.5 to 20 wt.%, the powder being adhered to the base layer by coating the treatment onto the base layer and drying the treatment thereon.



Received the following:

- Petition for Time Extension including  
Certificate of Mailing dated October 4, 2002
- Amendment Transmittal including  
Certificate of Mailing dated October 4, 2002
- Response dated October 4, 2002
- Marked-Up Amended Claims 12, 17 and 21  
Check (\$1,022)

Applicants: Satoshi MIKAMI et al  
Title: SKIN CONTACTING ARTICLE  
Serial No.: 09/341 328  
Confirmation No.: 4999  
Filing Date: July 6, 1999  
Examiner: Pulliam  
Group: 1615  
Our Ref: Kinoshita Case 209  
Due: October 4, 2002



From: FLYNN, THIEL, BOUTELL & TANIS, P.C. - VIA FACSIMILE  
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Confirmation Copy  
Yes \_\_\_ No X

DATE: December 2, 2002 TOTAL PAGES: 10

PLEASE DELIVER THE FOLLOWING PAGE(S) TO:

NAME: Examiner Pulliam FAX#: 703-746-4997

COMPANY: PTD

OUR REF: Kinoshita Case 209 YOUR REF: 09/341 328

MESSAGE: \_\_\_\_\_

Per our conversation, please find the  
enclosed.

Terryence F. Chapman/sr

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000828

## PATENT APPLICATION

IN THE U.S. PATENT AND TRADEMARK OFFICE

October 4, 2002

Applicants : Satoshi MIKAMI et al  
Title : SKIN CONTACTING ARTICLE  
Serial No. : 09/341 328 Group: 1615  
Confirmation No.: 4999  
Filed : July 6, 1999 Examiner: Pulliam  
International Application No.: PCT/JP98/00080  
International Filing Date : January 13, 1998  
Atty. Docket No.: Kinoshita Case 209  
Assistant Commissioner for Patents  
Washington, DC 20231

Sir:

Herewith is an amendment in the above-identified application.

- ☐ Statement(s) re small entity status submitted previously.  
☐ Statement(s) re small entity status enclosed.  
☐ No additional filing fee is required.  
☒ The additional filing fee has been calculated as shown below:

For	No. Filed	No. Extra	(X) LG Entity	RATE	( ) SM Entity	Fee
Basic Fee				\$740.00	\$370.00	\$
Total Claims	(31 - 30 = 1)		x \$ 18.00		x \$ 9.00	18.00
Indep. Claims	( 4 - 3 = 1)		x \$ 84.00		x \$ 42.00	84.00
[ ] Multiple Dep. Claim			+ \$280.00		+ \$140.00	
* * * TOTAL FILING FEE * * *						\$ 102.00

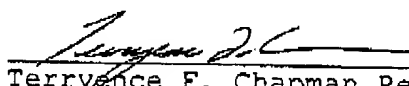
- ☒ A Check for \$1,022.00 is enclosed to cover fees.  
☒ Please credit any overpayment, or charge any additional filing fee or application processing fee required under 37 CFR 1.16 or 1.17 by this communication, to Deposit Account No. 06-1382. A duplicate copy of this sheet is enclosed.

IN DUPLICATE

Respectfully submitted,

TFC/smd

Encl: Listed above

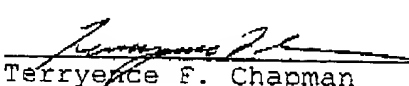
  
Terryence F. Chapman Reg. No. 32 549

## CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, DC 20231, on October 4, 2002.

Respectfully submitted,

130.0112

  
Terryence F. Chapman